County of Los Angeles
CHIEF EXECUTIVE OFFICE
Kenneth Hahn Hall of Administration
500 West Temple Street, Room 713, Los Angeles, California 90012
(213) 974-1101
http://ceo.lacounty.gov

WILLIAM T FUJIOKA
Chief Executive Officer

May 1, 2012

To: Supervisor Zev Yaroslavsky, Chairman
Supervisor Gloria Molina
Supervisor Mark Ridley-Thomas
Supervisor Don Knabe
Supervisor Michael D. Antonovich

From: William T Fujioka
Chief Executive Officer

SACRAMENTO UPDATE

This memorandum contains pursuits of County position on legislation related to funding for local ombudsman programs and creation of the Basic Health Program State option; a report on legislation of County interest regarding the definition of a safety net care provider for purpose of determining default enrollment into a Medi-Cal managed care plan; and the status of realignment budget trailer bill language.

Pursuit of County Position on Legislation

AB 2276 (Campos), which as amended on April 17, 2012, would appropriate $1.6 million for FY 2012–2013 and $1.6 million for FY 2013–2014 from the State Health Facilities Citation Penalties Account to the California Department of Aging for use in funding local ombudsman programs. The funds would be distributed to local ombudsman programs on a formula basis specified under current law.

Existing law provides for the deposit of funds collected by the State as a result of civil penalties imposed against Long-Term Care (LTC) facilities for non-compliance with applicable laws. The fees and fines associated with these penalties are deposited into the State Health Facilities Citation Penalties Account which may be used, upon appropriation by the Legislature, for the protection of health or property of residents of long-term health care facilities and the Long-Term Care Ombudsman Program. Additionally, current law establishes the Office of the State Long-Term Care Ombudsman in the California Department of Aging. The Ombudsman Program's primary responsibility is to investigate and resolve complaints made by, or on behalf, of residents in long-term care facilities. These facilities include nursing homes, residential care facilities for the elderly, and assisted living facilities.

The author of AB 2276 indicates that the bill protects vulnerable nursing home residents and their families by restoring some of the funding for the Long-Term Care Ombudsman Program that was reduced in recent years. Additionally, the author indicates that it is a win-win solution for both the Legislature and LTC facilities by providing support to the program without cost to the State General Fund.

According to the Department of Community and Senior Services (CSS), if AB 2276 is enacted, it may provide approximately $320,000 in FY 2012-13 and FY 2013-14 for the local long-term care ombudsman program. CSS indicates that the Department currently contracts with WISE Healthy Aging to administer the Long-Term Care Ombudsman Program. This organization has been providing Area Agency on Aging ombudsman service for over 30 years.

The Department of Community and Senior Services and this office support AB 2276. Therefore, consistent with existing Board policy to support proposals to increase funding for aging programs such as Linkages, Multipurpose Senior Services Program, Alzheimer's Day Care Resource Centers, Senior Nutrition Programs and local Long-Term Care Ombudsman Programs, **the Sacramento advocates will support AB 2276.**

AB 2276 is sponsored by AARP and supported by the Alzheimer's Association; California Advocates for Nursing Home Reform; California Long-Term Care Ombudsman Association; Office of the State Long-Term Care Ombudsman; and Ombudsman & HICAP Services of Northern California, among others. There is no registered opposition on file at this time.

AB 2276 passed the Assembly Health Committee by a vote of 19 to 0 on April 24, 2012. The measure will be heard in the Assembly Appropriations Committee on May 2, 2012.

SB 703 (Hernandez), which as amended July 12, 2011, would establish the Basic Health Program (BHP) State option allowed under the Federal Affordable Care Act (ACA) of 2010 to provide health care benefits to persons under 200 percent of the Federal Poverty Level (FPL) who are ineligible for Medicaid.

The Federal Affordable Care Act, also known as Federal Health Care Reform, requires states to create a Health Insurance Exchange (Exchange) by January 1, 2014, in which individuals can purchase health insurance, and to provide eligible individuals with subsidies to offset costs of purchasing health care coverage.

Under the Federal Affordable Care Act, states have the option to create a BHP to provide health coverage to legal residents with incomes between 133 percent and 200 percent of the FPL and legal immigrants with incomes below 133 percent FPL who

are ineligible for Medicaid as an alternative to these individuals obtaining coverage through the Exchange. BHP enrollees would receive services that are at least equal to the essential health benefits provided under the Exchange with the same or lower premiums and cost sharing. To finance the BHP, the State would receive Federal funding equal to 95 percent of the subsidies that enrollees would receive through the Exchange.

SB 703 would establish the BHP option in California. As currently amended, the bill specifies that the BHP would be administered by the Major Risk Medical Insurance Board, or its successor agency or department. The entity selected to administer the BHP would be required to: 1) determine eligibility criteria, scope of coverage for individuals enrolled in the BHP, and premium and cost sharing amounts; 2) collect premiums and provide or make available subsidized coverage through participating health plans; 3) process applications and enroll individuals; 4) determine and approve the benefits designs and share of cost amounts; and 5) maintain enrollment expenditures to ensure that expenditures do not exceed amounts available in the fund, and if sufficient funds are not available, to cover the estimated cost of program expenditures; among other requirements.

This office notes that as the State moves toward implementation of the Federal Health Care Reform, exercising the BHP option could provide several advantages over offering health care coverage solely through the Exchange, as follows:

- Under the BHP, coverage can be integrated with Medi-Cal, simplifying enrollment and eligibility determination, and providing greater continuity of care.

- The BHP could greatly reduce the problem of individuals going back and forth between Medi-Cal and Exchange coverage. It is estimated that half of low-income individuals may experience enough of a change of income to move between the Exchange and Medicaid each year.

- The BHP would support greater continuity of care because individuals who otherwise would move back and forth between Medi-Cal and Exchange coverage could be assigned to the same managed care plans and providers which serve Medi-Cal enrollees. It is expected that the Exchange network will use many private, non safety net providers which do not serve Medi-Cal enrollees.

- Integrating BHP coverage with Medi-Cal could reduce the number of families (e.g., with mixed citizenship/immigration status) in which family members must be covered under differing managed care plans (one for Medi-Cal enrollees and another for Exchange enrollees).

It is also important to note that no state has enacted BHP legislation or submitted a request to the U.S. Department of Health and Human Services (HHS) to exercise the BHP option, largely because HHS has not yet issued regulations or other detailed guidance. In addition, the Federal statutory language authoring the BHP is relatively vague at this point, including on key fiscal questions, such as the methodology for calculating the 95 percent of the exchange subsidies that otherwise, would be available to finance health benefits for BHP participants and whether Federal financing would be available to reimburse the state costs of administering a BHP option. All states, including California, would be reluctant to exercise the BHP if states were required to bear the entire cost of administering the program.

According to the Department of Health Services (DHS), SB 703 is consistent with the Department's mission to transform ambulatory care through the recently established Healthy Way LA, which has enrolled approximately 140,000 new patients within the last six months. DHS also states that it has assigned 240,000 insured and uninsured patients with a medical home where their health care needs are met in a patient-focused, provider team-centered approach, which includes a primary care physician, nurse, and other allied health professionals to ensure that every patient's individual needs are fully met. In addition, DHS is developing and implementing new systemic procedures whereby health care professionals are proactively following up with individual patients to encourage and to facilitate the administration of essential diagnostic and other preventative services.

The Department of Health Services and this office recommend a support-in-concept position on SB 703, until the Federal regulations are released and we have additional time to analyze the potential impact of this measure. Therefore, consistent with existing Board policy to support legislation that would implement provisions of Federal Health Care Reform by increasing access to care while maintaining and/or expanding the County's funding as a safety net provider, **the Sacramento advocates will take a support-in-concept position on SB 703.**

SB 703 is sponsored by the Local Health Plans of California and is supported by the California Association of Public Hospitals and Health Systems, the Congress of California Seniors, Santa Clara County, the California Association of Health Insuring Organizations, the California Chiropractic Association, Disability Rights Legal Center, Molina Healthcare of California, and Planned Parenthood Affiliates of California. This measure is opposed by the American Federation of State, County and Municipal Employees, AFL-CIO, California Right to Life Committee, Inc., and the Orange County Board of Supervisors.

SB 703 is awaiting a hearing in the Assembly Appropriations Committee.

Legislation of County Interest

AB 2002 (Cedillo), which as amended on April 30, 2012, would codify and expand the definition of a safety net provider, and change the formula in which a Medi-Cal beneficiary is assigned to a Medi-Cal managed care plan when a beneficiary fails to select a plan.

The Medi-Cal Program provides health care services for low-income children, families, elderly and disabled persons in California. Approximately 3.5 million Medi-Cal beneficiaries in 16 counties are required to enroll in a Medi-Cal managed care plan at the time they are determined eligible for benefits.

Currently, if a beneficiary fails to select a managed care plan, they are assigned to a plan by default using a formula developed by the California Department of Health Care Services. The formula defaults beneficiaries into a managed care plan based on health plan quality and safety net population factors. The current safety net default providers include federally qualified health centers, federally designated rural clinics, Indian or tribal clinics, non-profit community or free clinics licensed as primary care clinics or clinics affiliated with Disproportionate Share Hospital (DSH) facilities.

Safety net providers are currently defined in a variety of ways in statute and regulation and generally comprise providers such as public hospitals serving high numbers of uninsured, uncompensated, and in some instances, Medi-Cal patients.

AB 2002 would add Section 14093.1 to the Welfare and Institutions Code to define a safety net provider for the purpose of assigning a Medi-Cal beneficiary to a Medi-Cal managed care plan when a beneficiary fails to select a plan as:

1. A federally qualified health center.
2. A federally designated rural health center.
3. A non-profit community or free clinic licensed as a primary care clinic.
4. A satellite or intermittent site of a non-profit or free clinic licensed as a primary care clinic.
5. An Indian or tribal clinic.
6. A freestanding county clinic or clinic associated with a DSH.

7. A medical group, independent practice association, physician office, or clinic with more than ten physicians, with a Medi-Cal or medically indigent encounter rate of at least 50 percent of the total patients served.

8. A medical practice of ten or fewer physicians in which at least 30 percent of patients services in the calendar year are enrolled in Medi-Cal.

The Department of Health Services indicates that while AB 2002 would have no immediate fiscal impact on its operations, it would likely impact the number of future default assignments within the dual eligible population and would primarily threaten the transition of persons from the Low Income Health Program to the Medi-Cal expansion. DHS further indicates that the expanded definition of a safety net provider could impact existing and future programs targeting existing safety net providers. Of significant concern, is the potential for an expanded definition of a safety net provider to adversely affect DHS finances. This could occur by requiring the allocation of funds to new providers from capped funds currently allocated to DHS and other safety net providers. **This office, the Sacramento advocates and DHS are working with the author's office to address these concerns.**

AB 2002 is sponsored by Molina Healthcare of California and supported by the California Association of Physician Groups; California Medical Association; California Podiatric Medical Association; California Teamsters Public Affairs Council; Employee Health Systems Medical Group, Inc.; Greater Sacramento Pediatrics Association, Inc.; MedPOINT Management; Private Essential Access Community Hospitals; Sacramento Family Medical Centers; and SynerMed. This measure is opposed by Services Employees International Union of California; California Association of Public Hospitals; California Primary Care Association, and Local Health Plans of California.

AB 2002 passed the Assembly Health Committee by a vote of 16 to 0 on April 24, 2012. The measure is pending a hearing in the Assembly Appropriations Committee.

Realignment 2011 Programmatic Trailer Bills

On April 27, 2012, the Department of Finance released a package of proposed budget trailer bills impacting Mental Health, Alcohol and Drug Programs, including the Social Services Realignment 2011 Programmatic Trailer Bill, which is a 152-page bill, and includes the following programs realigned to counties from the State: Child Welfare Services (CWS), Foster Care, and Adoptions, among other programs.

On May 2, 2012, the Assembly Budget Subcommittee No. 1 is scheduled to hear the CWS Budget and Realignment of Health and Human Services Program.

This office is working with the impacted departments to determine the programmatic and fiscal impact of these bills to the County.

We will continue to keep you advised.

WTF:RA
MR:VE:IGEA:sb

c: All Department Heads
Legislative Strategist
Local 721
Coalition of County Unions
California Contract Cities Association
Independent Cities Association
League of California Cities
City Managers Associations
Buddy Program Participants